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Department of Water Resources

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BY 5 CLERK 4 JUDGE

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re the General Adjudication
of Rights to the Use of Water
from the Snake River Basin
Water System

Case No. 39576

The State of Idaho, ex rel.
R. Keith Higginson in his
official capacity as director
of the Idaho Department of
Water Resources,

COMMENCEMENT ORDER

Petitioner,

vs.

United States; State of Idaho;
and all claimants to the use
of water from the Snake River
Basin Water System,

Defendants.

The State of Idaho, ex rel. R. Keith Higginson having initiated the above-entitled cause by the filing of a petition on June 17, 1987, the commencement hearing having come on regularly for hearing on September 8, 1987, the Court having issued a Memorandum Opinion on Commencement of Adjudication, the Court makes the following findings of fact and conclusions of law based on the record of the commencement hearing and enters its Order as follows:

FINDINGS OF FACT

1. The director prepared a Notice of Filing of a petition for the general adjudication (Notice of Filing) that contained the information stated in Idaho Code § 42-1408(3) (Supp. 1987). The director served the Notice of Filing on the State of Idaho and on the United States.

2. The director published the Notice of Filing for three consecutive weeks in newspapers of general circulation in the following counties:

Ada	Caribou	Idaho	Nez Perce
Adams	Cassia	Jefferson	Oneida
Bannock	Clark	Jerome	Owyhee
Bingham	Clearwater	Kootenai	Payette
Blaine	Custer	Latah	Power
Boise	Elmore	Lemhi	Shoshone
Bonneville	Fremont	Lewis	Teton
Butte	Gem	Lincoln	Twin Falls
Camas	Gooding	Madison	Valley
Canyon		Minidoka	Washington

The last day of publication was on or before July 31, 1987.

3. The director filed affidavits of service of the Notice of Filing with the District Court.

4. The Court held the commencement hearing on September 8, 1987.

5. The following persons entered notices of appearances:

State of Idaho	Attorney General Jim Jones
United States	Peter C. Monson
Riverside Irrigation Dist., Ltd.	Craig R. Zaiss

Pioneer Irrigation Dist. Settlers Irrigation Dist.	Scott L. Campbell
Idaho Power Company	Thomas G. Nelson Paul L. Jauregui
Costa and Ruth Delis Helen Pappas James Annest Burdell Curtis W. Michael Howery John and Rosemary McGonigal	James Annest
Water Dist. No. 67	Bert L. Osborn
Upper Snake River Valley Protective Union	Blair Grover
Challis Irrigation Co. Robert and LeNore Barrett James R. and JoAnn Bennetts	Kent W. Foster
Lemhi Irrigation Dist.	Kent W. Foster
Committee of Nine	Kent W. Foster
Opaline Irrigation Dist.	Roy L. Eiguren and Steven R. Ormiston
Gem Irrigation Dist.	Roy L. Eiguren and Steven R. Ormiston
A & B Irrigation Dist. Falls Irrigation Dist. Aberdeen-Springfield Canal Company	Roger D. Ling
American Falls Reservoir District No. 2 Big Wood Canal Co.	Cecil D. Hobday
New Sweden Irrigation Dist.	John D. Hansen
Wilder Irrigation Dist.	Hawley, Troxell, Ennis, & Hawley
New York Irrigation Dist.	Givens, McDevitt, Pursley, Webb & Buser

Nampa & Meridian
Irrigation Dist.

Ringert, Clark,
Harrington, Reid,
Christenson & Kaufman

Boise-Kuna Irrigation
Dist.

Clemons, Cosho & Humphrey

Big Bend Irrigation
Dist.

Schroeder, Hutchens
& Sullivan

Twin Falls Canal Co.
North Side Canal Co., Ltd.
American Falls Reservoir
Dist.

John A. Rosholt and
Terry T. Uhling

6. This Court issued the Memorandum Opinion on Commencement of Adjudication on October 14, 1987.

CONCLUSION OF LAW

Based upon the findings of fact in this matter, the Court makes the following conclusions of law.

1. The director complied with Idaho Code § 42-1408 (Supp. 1987) in service and in publication of the Notice of Filing.

Based on the findings of fact and conclusions of law and on the record in this matter, the Court enters the following order:

IT IS HEREBY ORDERED THAT:

1. The Snake River adjudication is commenced as required by Idaho Code § 42-1406A (Supp. 1987).

2. The Memorandum Opinion on Commencement of Adjudication issued by this Court on October 14, 1987, is adopted as further findings of fact and further conclusions of law as permitted by I.R.C.P. 52(a).

3. The boundaries of the Snake River Basin water system to be adjudicated are as follows:

Beginning at the point where the southern boundary line of the state of Idaho meets the western boundary line of the state of Idaho, then following the western boundary of the state north to the northern boundary of the Clearwater Basin, in Idaho, in section 36, T. 36 N., R. 6 W., B. M., then following the northern watershed divide of the Clearwater River Basin north and east to the eastern boundary of the state of Idaho in section 4, T. 42 N., R. 11 E., B. M., then following the eastern boundary of the state southwest to the northern boundary of the Bear River Basin in section 35, T. 10 S., R. 46 E., B. M., then following the northern watershed divide of the Bear River Basin, in Idaho, southwest to the southern boundary of the state of Idaho in section 26, T. 16 S., R. 28 E., B. M., then following the southern boundary line of the state of Idaho west to the point of beginning.

A map showing the boundaries of the water system is set forth in Exhibit "A", which is attached hereto and incorporated herein by reference. All waters in the state of Idaho within the boundaries set forth above are included in this adjudication.

4. Counties wholly located within the boundaries of the water system include the following:

Ada	Clark	Jefferson	Payette
Adams	Clearwater	Jerome	Teton
Bingham	Custer	Lemhi	Twin Falls
Blaine	Elmore	Lewis	Valley
Boise	Fremont	Lincoln	Washington
Bonneville	Gem	Madison	
Butte	Gooding	Minidoka	
Camas	Idaho	Owyhee	
Canyon			

Counties partly located within the boundaries of the water system include the following:

Bannock
Caribou
Cassia
Latah

Nez Perce
Oneida
Power
Shoshone

5. All classes of water uses and all hydrologic sub-basins within the system described in Paragraph 3 above, shall be adjudicated as part of the Snake River Basin adjudication.

6. No uses of water are proposed to be excluded from the adjudication; however, the Court reserves ruling on whether domestic and stock water uses as defined by Idaho Code § 42-1401A(5) and (12) (Supp. 1987) will be adjudicated separately or processed under a separate method.

7. All claimants asserting rights to use water under state law from the Snake River Basin water system pursuant to state license, historic use, or federal or state court decree shall file a notice of claim with the department within the time limit set by the notice of order commencing the adjudication to be prepared by the director pursuant to Idaho Code § 42-1408A (Supp. 1987). In addition, all holders of state permits for which proof of beneficial use was filed prior to the issuance of this commencement order and permit holders required to file a claim pursuant to the authority of Idaho Code § 42-1409(9) (Supp. 1987) shall file a notice of claim with the department within the time set by the notice of the commencement order prepared by the director.

Any person claiming a right to use water pursuant to federal law shall file either a notice of claim or negotiated agreement as required by the notice of order commencing the adjudication or as otherwise ordered by the court.

8. The Director of the Idaho Department of Water Resources shall commence an investigation, as described in Idaho Code § 42-1410 (Supp. 1987), and determination of the various water rights within the water system described in Paragraph 3 above.

9. The director is authorized to prepare the notice of order commencing a general adjudication in a format that varies from the format specified by the Idaho Rules of Civil Procedure to provide for a better understanding of the notice and to reduce the length of the notice. The notice must contain, however, all information required by Idaho Code § 42-1408A(1) (Supp. 1987).

10. The director shall serve a notice of order commencing a general adjudication as provided in Idaho Code § 42-1408A(2)(a)-(e) (Supp. 1987) and send a notice of order by ordinary mail to all persons who submit a written request to the director as required by Idaho Code § 42-1408A(3) (Supp. 1987). Additional service as required by Idaho Code § 42-1408A(4) (Supp. 1987) is not determined by this order and shall be the subject of a future hearing.

11. The director shall file with the Court affidavits and other documents stating the persons served with a notice of

order commencing the adjudication. The affidavits shall contain the address used for service for each person served.

12. The Clerk of the District Court shall send a certified copy of this order to the director, and shall send a conformed copy to all persons appearing before the Court at the commencement hearing in accordance with the Idaho Rules of Civil Procedure.

DATED this 19 day of November, 1987.

A handwritten signature in dark ink, appearing to read "Daniel C. Hurlbutt, Jr.", written over a horizontal line.

DANIEL C. HURLBUTT, JR.
District Judge

CERTIFICATE OF MAILING

The undersigned certifies that on the 20 day
of November, 1987, she caused to be mailed, or hand
delivered, a copy of the commencement order to:

Betty Hollowell
Department of Energy
785 DOE Place
Idaho Falls, ID 83402

Thomas G. Nelson
Nelson, Rosholt, Robertson,
Tolman & Tucker
P. O. Box 1906
Twin Falls, ID 83303-1906

Allan Pinkham
Nez Perce Tribe
P. O. Box 305
Lapwai, ID 83540

James Annest
Attorney at Law
P. O. Box 686
Burley, ID 83318

Craig R. Zaiss, P.A.
P. O. Box 628
Parma, ID 83660

Robert C. Strom
Strom & Longeteig
P. O. Box 155
Craigmont, ID 83523

Lester Edelman
U.S. Army Corp of Engrs.
Room 8220
10 Massachusetts Ave., N.W.
Washington, D.C. 20314

Bert L. Osborn
Attorney at Law
P. O. Box 158
Payette, ID 83661

Paul L. Jauregui
Idaho Power Company
Box 70
Boise, ID 83707

Kent W. Foster
Kent, Kidwell, Hahn & Crapo
P. O. Box 129
Idaho Falls, ID 83405

Roy L. Eiguren
Steven R. Ormiston
350 N. Ninth St.
Suite 400
Boise, ID 83702

Jim Jones
Attorney General
State of Idaho
Statehouse, Room 210
Boise, ID 83720

Tim Wapato
Suite 202
975 E. Sandy Blvd.
Portland, OR 97214

Director
Idaho Department of
Water Resources
Statehouse
Boise, ID 83720

Roger D. Ling
Ling, Nielsen & Robinson
P. O. Box 396
Rupert, ID 83350

Carolyn Steele
Idaho Legal Aid Services
P. O. Box 1683
Boise, ID 83701

Peter J. Boyd
Scott L. Campbell
P. O. Box 1559
Boise, Idaho 83701

Edward Jiran
Department of Energy
Room 6H065
1000 Independence Ave., SW
Washington, D.C. 20585

Raymond D. Givens
P. O. Box 2710
Boise, ID 83724

Phillip Kaufman
Veterans Administration
810 Vermont Ave., NW
Washington, D.C. 20420

Mark Eissler
Office of General Counsel
Bonneville Power Admin.
P. O. Box 3621
Portland, OR 97208

Howard Funke
Tribal Attorney
Shoshone-Bannock Tribes
P. O. Box 306
Fort Hall, ID 83203

John Lindskold
General Litigation Section
U.S. Dept. of Justice
P. O. Drawer 3607
Denver, CO 80294

Barbara Scott-Brier
U.S. Dept. of Interior
500 NE Multnomah St.
Suite 607
Portland, OR 97232

Stuart Shelton
2407 S. Building
Dept. of Agriculture
14th & Independence Ave. NW
Washington, D.C. 20250

Richard Moen
Asst. Regional Counsel
General Service Admin.
GSA Center
Auburn, WA 98001

Ralph W. Tarr
Solicitor
Dept. of Interior
18th & C Streets, NW
Washington, D.C. 20420

Rebecca Ransom
Asst. Division Counsel
U.S. Army Corps of Engrs.
P. O. Box 2870
Portland, OR 97208

Lorraine Bodi
Office of General Counsel
NOAA
7600 Sand Point Way, NE
Seattle, WA 98115

Blair Grover
Grover & Walker
P. O. Box 36
Rigby, ID 83442-0036

John D. Hansen
Hansen, Beard, Martin &
St. Clair
P. O. Box 501
Idaho Falls, ID 83442-0501

David Lundgren
2503 N. 20th Road #203
Arlington, VA 22201

Mary Ellen Sloane
Northwest Band of Shoshone
9 Exchange Place, St. 1000
Salt Lake City, UT 84111

Cecil D. Hobdey
Hobdey & Hobdey
Land & Natural Res. Div.
U.S. Dept. of Justice
P. O. Box 44378
Washington, D.C. 20026-4378

Peter C. Monson
Attorney, Indian Res. Sec.
Land & Natural Res. Div.
U.S. Dept. of Justice
P. O. Box 44378
Washington, D.C. 20026-4378

Harold A. Ranquist
Payne & Ranquist
200 Lamos Blvd. N.W.
Suite 1020
Albuquerque, NM 87012

Maurice O. Ellsworth
U.S. Attorney
District of Idaho
Federal Bldg., Box 037
550 W. Fort Street
Boise, ID 83724

Hank Meshorer
Asst. Attorney General
Department of Justice
Land & Natural Res. Div.
Indian Res. Sec., Rm. 6317
P. O. Box 44378
Washington, D.C. 20026-4378

Frederick C. Lyons, Clerk
Supreme Court Building
451 W. State St.
Boise, Idaho 83720

John A. Rosholt
Terry T. Uhling
P. O. Box 1906
Twin Falls, ID 83303-1906

Robert D. Dellwo
Dellwo, Rudolf & Shroeder
424 ONB Building
Spokane, WA 99201

William F. Ringert
P. O. Box 2773
Boise, ID 83701

Randall C. Fredricks
Clemons, Cosho & Humphrey
815 W. Washington
Boise, ID 83702

Don A. Olowinski
Albert P. Barker
P. O. Box 1617
Boise, Idaho 83701

Larry Sullivan
Schroeder, Hutchens & Sullivan
P. O. Box 220
Vale, OR 97918

Marilyn Broek, P.E.
1316 Hayes
Boise, Idaho 83702

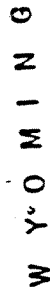
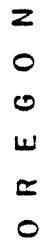
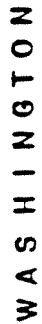
Patrick D. Costello
775 North Eighth Street
Boise, Idaho 83702

SNAKE RIVER BASIN WATER SYSTEM
 STATE OF IDAHO

10 20 30 40 50

Scale in Miles

Snake River Drainage Basin in Idaho Upstream
from the Point of which the Snake River leaves
Idaho in Section 36, Township 36 North, Range
6 West, Boise Meridian.



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